

Message Text

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ACTION IO-13

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SUBJ: US CONFERENCE ON SUCCESSION OF STATES

BEGIN SUMMARY: COMMITTEE OF WHOLE HAS ADOPTED BY CONSENSUS
ILC TEXTS OF ART. 8 (DEVOLUTION AGREEMENTS), ART. 9 (UNILATERAL
DECLARATIONS), AND ART. 10 (TREATIES PROVIDING FOR PARTICI-
PATION OF A SUCCESSOR STATE), AND REFERRED THEM TO DRAFTING
COMMITTEE. ART. 9 BIS PROPOSED BY UK ON CONSEQUENCES OF A
SUCCESSION OF STATES AS REGARDS PREDECESSOR STATE WAS
DEFEATED BY VOTE OF 13 (US) FOR, 32 AGAINST, 32 ABSTENTIONS.
END SUMMARY.

1. UK AMENDMENT TO ART. 8 WHICH WOULD HAVE ADDED AT END
OF PARA 2 "BUT WITHOUT PREJUDICE TO ANY RELEVANT RULES OF
INTERNATIONAL LAW CONCERNING RIGHTS OR OBLIGATIONS ARISING
FOR A THIRD STATE FROM A TREATY" WAS REJECTED. VOTE WAS
23 (US) FOR, 28 AGAINST, WITH 21 ABSTENTIONS. UK THEREAFTER
WITHDREW A SIMILAR AMENDMENT TO PARA 2 OF ART. 9, BUT MAKING
THE POINT ON BOTH OCCASIONS THAT A GENERAL PROVISION
OF THIS NATURE MIGHT WELL BE INCLUDED IN THE PREAMBLE
TO THE CONVENTION.

2. ON ART. 10, UK INTRODUCED AN AMENDMENT TO PARA 2

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WHICH WOULD ALLOW A SUCCESSOR STATE, IN A CASE WHERE A
TREATY PROVIDES THAT SUCH A STATE MAY BE CONSIDERED
AS A PARTY, TO EXPRESS ITS CONSENT EITHER BY EXPRESSLY SO
AGREEING OR "BY REASON OF ITS CONDUCT CLEARLY
MANIFESTED SUBSEQUENT TO THE DATE OF SUCCESSION." IT
TOO WAS VOTED DOWN. VOTE WAS 13 (US) FOR, 45 AGAINST,
18 ABSTENTIONS.

3. UK'S REVISED AMENDMENT 9 BIS WOULD HAVE STATED:

"A TREATY WHICH IS IN FORCE AT THE DATE OF A SUCCESSION OF STATES IN RESPECT OF THE TERRITORY TO WHICH THAT SUCCESSION RELATES SHALL NOT GIVE RISE, AFTER THAT DATE, TO RIGHTS OR OBLIGATIONS FOR THE PREDECESSOR STATE IN RESPECT OF EVENTS OR SITUATIONS OCCURRING THEREAFTER UNLESS THAT TREATY OTHERWISE PROVIDES." OPPOSITION WAS BASED ON ARGUMENT THAT IT WAS DANGEROUS TO APPLY MOVING TREATY FRONTIERS PRINCIPLE TO NEWLY INDEPENDENT STATES AS AN ABSOLUTE RULE.

4. DISCUSSION OF ART. 6 (CASES OF SUCCESSION COVERED BY PRESENT ARTICLES) WAS TAKEN UP IN INFORMAL WORKING GROUP ON APRIL 18 AND 19. NO AGREEMENT COULD BE REACHED ON A SOVIET PROPOSAL TO SUBSTITUTE A PROVISION STATING: "NOTHING IN THE PRESENT ARTICLES SHALL BE CONSIDERED AS PREJUDGING IN ANY RESPECT ANY QUESTION RELATING TO THE VALIDITY OF A SUCCESSION OF STATES WHICH SHALL BE GOVERNED BY INTERNATIONAL LAW AND IN PARTICULAR BY THE PRINCIPLES OF INTERNATIONAL LAW EMBODIED IN THE CHARTER OF THE UNITED NATIONS." WEO AND AFRICAN GROUPS WERE BOTH INTERNALLY DIVIDED ON MATTER. RESULT WAS THAT WORKING GROUP WILL RECOMMEND COMMITTEE OF WHOLE ADOPT ILC TEXT AND CONSIDER MODIFICATIONS SUGGESTED BY ETHIOPIA, ROMANIA, AND SINGAPORE, POSSIBLY FOR DRAFTING COMMITTEE. IT WILL ALSO SUGGEST THAT IDEA OF SOVIET PROPOSAL BE REFLECTED ELSEWHERE IN CONVENTION, E.G., IN PREAMBLE. DISCUSSION OF ART 7. (NONRETROACTIVITY) NOT YET TAKEN UP BY WORKING GROUP. MEEHAN
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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
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